



#14
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
DIJKE et al.

Serial No: 09/982,543

Filed: October 18, 2001

For: Morphogenic Protein-Specific Cell
Surface Receptors and Uses Therefor

Attorney Docket No. CIBT-P04-523

Art Unit: 1647

Examiner: Landsman, Robert

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March 11, 2003
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and of Mail Deposit

Joanne Ryan
Joanne Ryan

Commissioner of Patents
Washington, D.C. 20231

REPLY TO RESTRICTION REQUIREMENT

Sir:

This reply is in response to the outstanding Restriction Requirement, mailed December 18, 2002, in connection with the above application. The period for reply has been extended to March 18, 2003, by the accompanying petition for two months extension.

Applicants hereby elect Group I (claims 1-5 and 8-10), with traverse. Applicants elect this invention with traverse, because all Group II claims (6 and 7) depend on the method of Group I claims, a search of the subject matter of Group I claims necessarily entails searching the subject matter of Group II claims. Group III claims 11-14 are product-by-process claims produced by the method of Group I claims, thus the subject matter of these two Groups are also closely related. Thus, these three Groups, or at least Groups I and II, should be examined simultaneously.

In addition, claim 27 (Groups X and XI) is a linking claim that links Group III with Groups VIII and IX. If Group III is rejoined with Groups I and II, then search of the Group I subject matter also entails searching at least part of the subject matter of Group III claims. Thus, reconsideration and withdrawal of the restriction requirement are respectfully requested.

In replying to the species election requirement, Applicants hereby elect, for search purpose only, Species ALK-6 (SEQ ID NO: 7) of Group I, with traverse. Applicants elect this invention with traverse, because the subject matter of the related species (such as ALK-2 and ALK-3, etc.) are different species of a Markush Group. These species are related in name, structure and sequence, and therefore it would not constitute a significant additional burden to examine claims directed to all species simultaneously. For example, the Examiner can use the key search term "ALK" to simultaneously search ALK-2, ALK-3, and ALK-6. Also given the significant sequence homology between the elected ALK-6 sequence and the non-elected species ALK-2 and ALK-3, searching with ALK-6 sequence as a query would necessarily identify the related sequences such as ALK-2 and ALK-3.

Further regarding species election pertaining to a Markush group, pursuant to MPEP 803.02, "[i]f the members of the Markush group are sufficiently few in number or so closely related that a search and examination of the entire claim can be made without serious burden, the examiner must examine all claims on the merits, even though they are directed to independent and distinct inventions." Applicants submit that such is the case in Group I claims. In addition, Applicants respectfully point out that the search of the Markush-type claim will be extended to non-elected species should no prior art be found that anticipates or renders obvious the elected species (MPEP 803.02).

The Examiner may address any questions raised by this submission to the undersigned at 617-951-7000. Should an extension of time be required, Applicants hereby petition therefor and request that the extension fee and any other fee required for timely consideration of this submission be charged to **Deposit Account No. 18-1945**.

Respectfully Submitted,

Date: March 11, 2003

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